

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**ROGELIO BARRON AND MARIA
BARRON, INDIVIDUALLY AND ON
BEHALF OF ANTHONY BARRON,
DECEASED**
Plaintiffs,

v.

UNITED STATES OF AMERICA
Defendant.

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CASE NO. 5:18-cv-1184

PLAINTIFFS' ORIGINAL COMPLAINT

Rogelio Barron and Maria Barron, Individually and on Behalf of Anthony Barron, Deceased, Plaintiffs in the above-referenced action, file this Original Complaint against the Defendant United States of America, and would respectfully show the following:

I. JURISDICTION, VENUE, AND SERVICE OF PROCESS

1. This case arises under the Federal Tort Claims Act, 28 U.S.C. § 2671 et seq., and 28 U.S.C. § 1346(b), for money damages as compensation for personal injuries that were caused by the negligent and wrongful acts and omissions of agents, servants, and/or employees of Fort Sam Houston, the United States of America, or some agency thereof, under such circumstances where the United States, if a private person, would be liable to Plaintiffs in accordance with the laws of the State of Texas.

2. Venue is appropriate in the District Court for the Western District of Texas pursuant to 28 U.S.C. § 1402(b) because Plaintiffs reside within the Western District of Texas and because it is the judicial district where the acts and omissions complained of occurred.

3. Plaintiffs have fully complied with the provisions of 28 U.S.C. § 2675 and fully exhausted their administrative remedies prior to filing this suit. On July 26, 2016, Plaintiffs filed

a Standard Form 95 with the appropriate agency. Because the agency has not made a final disposition of this claim, suit is therefore ripe pursuant to 28 U.S.C. 2675(a).

4. Defendant United States of America may be served with process in accordance with FED R. CIV. P. 4(i)(1) by serving a copy of the Summons and Plaintiffs' Original Complaint on John Bash, the United States Attorney for the Western District of Texas, by Certified Mail, Return Receipt Requested at his office, United States Attorney, Western District of Texas, 816 Congress Avenue, Suite 1000, Austin, TX 78701, to the attention of the Civil Process Clerk, and by serving a copy of the Summons and Plaintiffs' Original Complaint on Matthew Whitaker, Acting Attorney General of the United States, by Certified Mail, Return Receipt Requested, at the Attorney General's Office, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, to the attention of the Civil Process Clerk.

II. PARTIES

5. Plaintiffs Rogelio Barron and Maria Barron are the parents of Anthony Barron, Deceased.

6. Defendant is the United States of America.

III. FACTS

7. The facts alleged as to the parties above are incorporated by reference.

8. On October 30, 2015, flooding occurred at Camp Bullis property in Bexar County, Texas, owned and controlled by Fort Sam Houston, a U.S. Army post.

9. Anthony Barron was a civilian worker from Training, Rehabilitation and Development Institute, Inc., working at Camp Bullis.

10. At approximately 7:00 a.m. on October 30, 2015, Anthony Barron was driving on a Camp Bullis road.

11. Unfortunately, Fort Sam Houston personnel had negligently failed to cordon off or otherwise restrict access the road at Camp Bullis on which Anthony Barron was driving.

12. Anthony Barron was swept away by flood waters, resulting in his death from asphyxia and drowning.

IV. CAUSE OF ACTION

13. The facts alleged as to the parties above are incorporated by reference.

14. Defendant United States of America was negligent in one or more of the following ways:

- a. In failing to cordon off or otherwise restrict access to the road on which Anthony Barron was driving; and
- b. In failing to warn Anthony Barron that the road on which he was driving was flooded, could become flooded without warning, or was otherwise unsafe for use.

15. At all times mentioned herein, the employees, agents, servants, and/or representatives of the Defendant United States of America were negligent and caused the death of Anthony Barron and Plaintiffs' injuries and damages.

V. DAMAGES

16. Plaintiffs seek recovery of all damages permitted by Texas law as a result of Defendant's negligence. Specifically, Plaintiffs, individually and on behalf of Anthony Barron's estate, seek recovery of the following damages that were sustained in the past and, in reasonable probability, will be sustained in the future:

- a. Mental anguish;
- b. Loss of companionship and society;

- c. Loss of pecuniary contributions;
- d. Anthony Barron's conscious pain and suffering;
- e. Antony Barron's lost earning capacity; and
- f. Anthony Barron's funeral and burial expenses.

VI. REQUEST FOR RELIEF

17. As a result of the foregoing, Plaintiffs respectfully request that Defendant be cited to appear and answer herein; and that upon final trial and hearing hereof, that Plaintiffs have judgment against Defendant for the amount of their actual damages; for such other and different amounts as they shall show by proper amendment before trial; for post-judgment interest at the applicable legal rate; for all costs of court incurred in this litigation; and for such other and further relief, at law and in equity, both general and special, to which they may show themselves to be entitled and as this Court deems just and proper.

Respectfully submitted,

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